

IN THE
Court of Appeal of the State of California
IN AND FOR THE
Fifth Appellate District

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STANDING ORDER NO. 04-1

THE COURT:

Effective August 3, 2004, this court will no longer compensate appointed counsel for research or briefing directed to any issue presented by *Blakely v. Washington* (2004) __ U.S. __, [124 S.Ct. 2531, __ L.Ed.2d __], pending opinions by the California Supreme Court in *People v. Towne* (review granted Jul. 14, 2004, S125677), and *People v. Black* (review granted Jul. 28, 2004, S126182).

However, if counsel or appellant wishes to raise a *Blakely* issue in any case pending before this court, he or she may file a letter stating with precision the *Blakely* issue[s] he or she wishes to raise on the appellant's behalf and this court will deem such issue[s] raised, thereby preserving the appellant's ability to seek review of the issue[s] in the California Supreme Court. The failure to identify an issue by a letter will operate as a waiver. The People, through the Attorney General, need not file any response to such a letter statement and the court will deem the stated issue[s] to be opposed by the People.

The Court may request further briefing in any case and will reevaluate this order after the California Supreme Court rules in *Towne* and *Black*.

This order does not apply to any pending appeal in which this court has ordered or authorized, on or before August 2, 2004, specific briefing on a *Blakely* issue.

The purpose of this order is to ensure that the subject issues will be raised and preserved for review in an efficient manner.

Dated: August 2, 2004

DIBIASO, ACTING P.J.

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F043450 People v. Alvarez

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

F043450 People v. Alvarez

The judgment is affirmed. The case is remanded for further proceedings to determine the existence of probable cause to believe “that blood, semen, or any other bodily fluid capable of transmitting HIV has been transferred from the defendant to the victim” pursuant to Penal Code section 1202.1 subdivision (e)(6)(A)(iii).

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F043934 Majistee Corporation v. Lewis et al.

Oral argument having been waived in the above-entitled case in accordance with the provisions of a notice mailed to counsel, the case is submitted for decision.

F042328 People v. Garcia

The judgment is affirmed. Buckley, J.

We concur: Dibiaso, Acting P.J.; Dawson, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F041763 People v. Haag

Filed modification of opinion (no change in judgment). Appellant’s petition for rehearing is denied. Ardaiz, P.J.

We concur: Harris, J.; Gomes, J.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]

F043809 People v. Murphy

Counsel having failed to request oral argument in the above-entitled case, oral argument is deemed waived in accordance with the provisions of a notice heretofore mailed to counsel and the cause is submitted.

IN THE
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F043809

People v. Murphy

The judgment is affirmed w/directions.

By the Court.

[NOT TO BE PUBLISHED IN OFFICIAL REPORTS]